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April 7, 2004

Ms. Marlene H. Dortch  
Secretary, Federal Communications Commission  
445 12th St. S.W.  
Washington DC 20554

Re: MM Docket 86-440

Dear Ms. Dortch:

I, Sid Shumate, owner of a residence located at 432 Moseley Drive, in Charlottesville, Virginia, and owner of the Givens & Bell division of Blue Ridge Video Services, hereby submit the enclosed Informal Objection to the immediate grant of a transfer of control, file # BAPCT-20040316AJT, of the construction permit and current construction permit modification application(s) for television channel 19, facility # 363, Call Sign 860410KP, Charlottesville, VA.

I certify that I am mailing or hand-carrying true copies to the following interested parties:

Mr. Gene A. Bechtel, Esq.  
Law Office of Gene Bechtel, P.C., Suite 600  
1050 Seventeenth St., NW  
Washington DC 20036

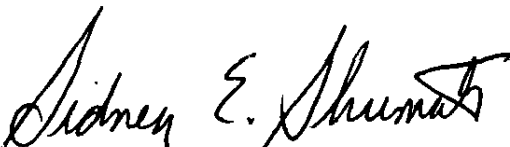
Gray Television Licensee, Inc.  
1750 K. Street, NW  
Suite 1200  
Washington, DC 20006

James W. Shook, Esq.  
Federal Communications Commission  
445 12 St. SW  
Washington DC 20554

Vincent A. Pepper, Esq.  
Womble Carlyle Sandridge & Rice  
1401 Eye Street, NW, 7<sup>th</sup> Floor  
Washington DC 20005

Ms. Katrina Renouf, Esq.  
Renouf and Polivy  
432 Sixteenth St., N.W.  
Washington DC 20036

Christopher J. Reynolds, Esq.  
P.O. Box 2809  
Prince Fredrick, MD 20678  
Counsel for NRAO



Sidney E. Shumate  
Principal Owner, Givens & Bell Division of Blue Ridge Video Services  
1897 Ridge Road, Haymarket VA 20169

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Before the  
**Federal Communications Commission**  
**Washington, D.C. 20554**

In re Application of	)	MM DOCKET NO. 86-440
	)	
Charlottesville Broadcasting Corporation	)	Facility ID #363
For Voluntary Assignment	)	
Of the Construction Permit	)	Call Sign 860410KP
For A New TV Station on Channel 19	)	
At Charlottesville, Virginia	)	File No. BAPCT-20040316AJT
To Gray Television Licensee, Inc.	)	

April 7, 2004

Ms. Marlene H. Dortch  
 Secretary, Federal Communications Commission  
 445 12th St. S.W.  
 Washington DC 20554

Re: MM Docket 86-440, and application for consent to assignment of broadcast station construction permit or license BAPCT – 20040316AJT

Dear Ms. Dortch:

The following comments are being filed with the Federal Communications Commission (the Commission) as an “informal objection” as per Commission Rules and Regulations Section 73. 3587. I submit this informal objection in regard to the application of the Charlottesville Broadcasting Corporation (CBC), accepted for filing on March 26, 2004, to transfer control of facility #363, Call Sign 860410KP, a construction permit, and its

associated pending modification of construction permit applications, for a new Television station at Charlottesville, Virginia, to Gray Television Licensee, Incorporated (Gray).

I hereby informally object to granting this transfer of control application at this time. It would be inadvisable for the Federal Communications Commission (Commission) to grant this transfer of control prior to the time of completion of the construction permit, and notification to the Commission by the licensee, that the facility has been completed according to the current version of the construction permit applicable at the time and has begun operating under program test authority.

CBC has, as recently as April 1, 2004, (file # BMPCT-20031219AAK) continued to submit to the Commission a string of applications to modify and amend the current, un-executable construction permit (file # BPCT-19860410KP), which was granted by direct motion of the Commission, for a new television station on channel 19, at Charlottesville, VA. The time period granted by the Commission to construct this facility will expire on August 15, 2004, and no events that would qualify to allow tolling of this permit have occurred. Therefore, CBC, or Gray, will have only a very short time remaining, to construct and make operational this facility, once the Commission grants one of the modification of construction permit applications currently before, or perhaps yet to be submitted, to the Commission.

In addition, there are other delays and potential delays yet to be surmounted. I will discuss in detail, however, only one of these details. The current modification

amendment application, accepted on April 1, calls for the disassembly, removal, and replacement of the tower currently supporting a translator, W64AO, owned and operated by the potential assignee, Gray. Gray also owns and operates WHSV-TV, Channel. 3, a commercial television station and ABC affiliate, in Harrisonburg, Virginia. W64AO retransmits WHSV-TV's programming in its entirety. The CBC's construction permit would build a new television station in the Charlottesville DMA. WHSV-TV is located in the adjacent Harrisonburg DMA. In the past, however, on at least one occasion, the Charlottesville and Harrisonburg television markets have been combined.

The Zoning and Planning Public Hearing notice webpage for Albemarle County, Virginia, lists an application for a Special Use Permit, to allow the removal and replacement of this tower. This application is scheduled for a hearing before the Planning Commission on May 11, 2004, and for a first hearing before the Zoning Board on June 9, 2004. If all went smoothly with this application, it would then be scheduled for the first of several public hearings before the full County Board of Supervisors, who have often declared on the record, their individual hostility toward any and all tower construction in Albemarle County.

In addition, there are several other groups and boards who, according to the Albemarle County Code, Chapter 18, will also have to be contacted and from which approval must be granted, including, but not limited to, the Albemarle County Architectural Review Board, and the Virginia Department of Aviation.

The last time a broadcaster (in fact, a previous entity with the name of Charlottesville Broadcasting Corporation, owned primarily by the late Lawrence Richardson) in Charlottesville attempted to obtain permission to replace a tower, it took at least two years to obtain permission to replace a tower that was located in a relatively obscure location.

The tower that is proposed to be replaced by CBC and Gray, is located within plain sight of the eastern and southeastern entrances to Charlottesville, Virginia, and within sight of, and adjacent to, the properties of several significant and sensitive historical sites, including Montalto, Ash Lawn, and Morven Farms. Montalto, so named by Thomas Jefferson, is between Carter's Mountain and Monticello, the home of President Thomas Jefferson. Both Montalto and Monticello are owned and operated by the Thomas Jefferson Foundation. The top of Carter's Mountain is also adjacent to Morven Farms, which was recently given to the University of Virginia Foundation by John Kluge (the former owner of the Metromedia stations). The site is also easily visible from Ash Lawn-Highland, the home of President James Monroe, now owned and operated by the College of William & Mary. So to say that this is a politically "sensitive" site is an understatement. It is therefore unlikely that, at this late date in the construction period, either CBC or Gray can obtain a special use permit, and a local construction permit, from Albemarle County in time to begin, much less complete, deconstruction and replacement of the existing tower on Carter's Mountain, before August 15, 2004.

Why, therefore, would an experienced broadcaster like Gray, risk losing all that it may have invested in the purchase and execution of this construction permit? The answer is that Gray, by having control of this permit, could then, shortly before the expiration of the permit, apply to modify its current license for its local translator, W64AO, to move it to Channel 19, by requesting permission from itself to waive the co-channel mileage separation requirement.

In this regard, the Commission should note that Gray, and the previous owners of WHSV-TV, have, despite the long-pending Commission reallocation of all television channels above 52, not taken advantage of the windows of opportunity to apply for a new operating frequency for W64AO, which operates on channel 64.

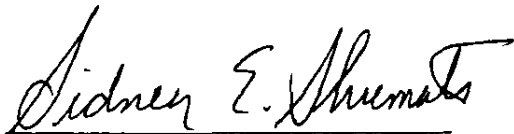
So the end result of this 18-year long license application proceeding, would be that a locally beloved public broadcaster, WVPT-TV, Staunton, Virginia, will have been forced off its Charlottesville (W19BB) translator channel, only to have the channel taken over by the translator for an ABC affiliate whose translator off-air and cable signal is, if not always, almost always second in market share (according to Nielsen Media Research for the Charlottesville DMA) to the cable-only signal of the Richmond ABC affiliate, WRIC-TV.

Should this be the ignominious end to what the Commission has (Memorandum Opinion and Order, adopted April 19, 2000, paragraph 15) described as "one of the oldest comparative proceedings involving competing broadcast applications"? This result

would not fulfill the Commission's intent and mandate when it granted this construction permit by a direct Opinion and Order, to provide a second full power commercial television service to Charlottesville, Virginia.

Therefore, I respectfully recommend to the Commission that they not grant this transfer of control until as such time as CBC, working in concert with Gray under the LMA agreement and terms of the Asset Purchase Agreement shown in their application, has successfully completed construction and initiated operation of a full power commercial television service on Channel 19 in Charlottesville Virginia.

Sincerely yours,

A handwritten signature in cursive script, reading "Sidney E. Shumate". The signature is written in dark ink and is positioned above a horizontal line.

Sidney E. Shumate